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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|-----------------------|------------------|
| 09/675,532 | 09/29/2000 | Adrian Crisan | 1662-28600 (P99-2749) | 1582 |

23505 7590 09/17/2003

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EXAMINER

DU, THUAN N

ART UNIT

PAPER NUMBER

2185

DATE MAILED: 09/17/2003

B

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 09/675,532 | Applicant(s) CRISAN, ADRIAN | |
| | Examiner Thuan N. Du | Art Unit 2185 | |
| | | | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 29 September 2000.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-24 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 01 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

4) ☐ Interview Summary (PTO-413) Paper No(s). _____

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-24 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett et al. [Barnett], U.S. Patent No. 5,664,093.

4. Regarding claim 1, Barnett teaches for configuring a computer system comprising:

(a) determining the current configuration of the computer system [col. 2, line 64 to col. 3, line 2], said configuration including hardware and software component information, the information including version information [col. 3, lines 10-15];

(b) determining an overall problem index value associated with the current configuration, said overall problem index value providing a relative indication of the problems in the computer system [col. 7, lines 26-34];

(c) varying the configuration of the computer system [col. 4, lines 21-24].

Barnett does not explicitly teach the step of determining an overall problem index value for the configuration as varied in (c). One of ordinary skill in the art would have readily

recognized that it would have been obvious to re-determine the overall problem index value for ensuring the new configuration contains less problems than the previous configuration.

5. Regarding claims 2-4, it would have been obvious to one of ordinary skill in the art to perform step (e) to provide a lowest overall problem index value configuration and select said configuration thereafter.

6. Regarding claims 5 and 6, Barnett teaches the step of varying the configuration of the computer system includes varying the version of each software application in the configuration determined in (a) [col. 4, lines 21-23].

7. Regarding claims 7 and 8, Barnett teaches the step of determining an overall problem index value include selecting individual problem index values from a knowledge base [col. 7, lines 26-34].

8. Regarding claims 9-11, it is a matter of design choice for the problem index value is used to indicate the number of problems or severity of problems or both.

9. Regarding claims 12-24, Barnett teaches the claimed method steps. Therefore, Barnett teaches the apparatus to implement the claimed method steps.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is (703) 308-6292 or via e-mail, thuan.du@uspto.gov. The examiner can normally be reached on Monday-Friday: 9:00 AM - 5:30 PM, EST.

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Art Unit: 2185

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on (703) 305-9717.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202.

The fax numbers for the organization where this application or proceeding is assigned are as follow:


- (703) 746-7238 [After Final Communication]
- (703) 746-7239 [Official Communication]
- (703) 746-7240 [Non-Official Communication]

and/or:

(703) 746-5668 (use this fax number, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication).

Hand-delivered responses should be brought to:

Crystal Park II
2121 Crystal Drive
Arlington, VA 22202
Fourth Floor (Receptionist).



THOMAS LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Thuan N. Du
September 11, 2003